

# Attachment 1 – Appeal Information

#921



## INLAND APPEAL FORM

SAN LUIS OBISPO COUNTY DEPARTMENT OF PLANNING AND BUILDING

976 OSOS STREET • ROOM 200 • SAN LUIS OBISPO • CALIFORNIA 93408 • (805) 781-5600

Promoting the Wise Use of Land • Helping to Build Great Communities

Please Note: An appeal should be filed by an aggrieved person or the applicant at each stage in the process if they are still unsatisfied by the last action.

### PROJECT INFORMATION

Name: MONARCH DUNES

File Number: DRC2014-00130

Type of permit being appealed:

☐ Plot Plan ☐ Site Plan ☐ Minor Use Permit ☒ Development Plan/Conditional Use Permit

☐ Variance ☐ Land Division ☐ Lot Line Adjustment ☐ Other: \_\_\_\_\_

The decision was made by:

☒ Planning Director (Staff) ☐ Building Official ☐ Planning Department Hearing Officer

☐ Subdivision Review Board ☐ Planning Commission ☐ Other \_\_\_\_\_

Date the application was acted on: \_\_\_\_\_

The decision is appealed to:

☐ Board of Construction Appeals ☐ Board of Handicapped Access

☒ Planning Commission ☐ Board of Supervisors

### BASIS FOR APPEAL

State the basis of the appeal. Clearly state the reasons for the appeal. In the case of a Construction Code Appeal, note specific code name and sections disputed). (Attach additional sheets if necessary)

TRUCKEY WANTS TO NOW CHANGE THE PURPOSE OF MOST OF ITS PHASE 2A  
ACREAGE WHILE STILL BUILDING OVER 220 HOMES DURING A  
STAGE 4 DROUGHT. THE WHOLE PROJECT SHOULD BE STOPPED UNTIL  
AN ADDITIONAL 20 YEAR WATER CERTIFICATION CAN BE OBTAINED.

Condition Number \_\_\_\_\_ Reason for appeal (attach additional sheets if necessary)

— MORE INFO WILL FOLLOW —

### APPELLANT INFORMATION

Print name: CRAIG MERRILL

Address: 1295 VIVA WAY, NIPOMO CA 93444

Phone Number (daytime): 805 440-0170

We have completed this form accurately and declare all statements made here are true.

Signature

Date

### OFFICE USE ONLY

Date Received: 8/15/2016

By: NAD

Amount Paid: \$850.00

Receipt No. (if applicable): \_\_\_\_\_

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SLOPLANNING.ORG

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## APPEAL TO PLANNING COMMISSION OF DRC2014-00130 TRILOGY/MONARCH DUNES PHASE 2A CUP

Dear Commissioners:

The following represents the views of most of the residents/property owners of the Nipomo mesa whose homes are in the border area of phase 2A of the Trilogy/Monarch Dunes/Woodlands specific plan. Phase 2A CUP was approved by you in April based on a presentation that the developers (Shea Homes) deceptively made to you and the neighbors promising a golf course on most of the acreage along with over 220 homes. They are now in the process of grading for the homes and a vineyard instead of the approved CUP without any public notification or seeking any input from bordering neighbors who are most affected. Shea Homes has sought to change all of the golf course acreage to a massive vineyard because it is cheaper to install and they don't want to offend the operators of their current golf course, even though they have no problem offending many property owners who bought and developed homes with the longstanding promise of a golf course as their buffer to the development. They also seem to have no problem with a massive conflict of interest in approving water for their project when all of the rest of Nipomo is in a declared stage 4 drought and the Nipomo Community Services District has responsibly stopped development, unlike the Shea Homes controlled Woodlands Mutual Water Company. They also refuse to acknowledge that their 1998 20 year water availability study expires next year and have refused to conduct another study prior to building. They have sought to subvert public input by filing a petition to County Planning Director Mr. Bergman to fundamentally change the entire development AFTER it was approved, and Mr. Bergman has now approved this by unilateral executive action. We disagree with Mr. Bergman that this represents a substantially equivalent use, and frankly one has to question how the director of Planning and Building could make that judgment on his own regarding a complete change in the usage of the majority of this project.

We are asking the commission to stop all grading and development of Monarch Dunes/Trilogy phase 2A for the following reasons:

### 1. Water

By far the biggest concern of the neighboring property owners is the irresponsible use of future water by the developers who control their own water company and whose many wells are adjacent to our own. As mentioned, the Woodlands Mutual Water Company is controlled currently by Shea Homes as the majority shareholders. If this project were dependent on the Nipomo Community Services District water, it would currently be a non-starter, as they would not issue any intent to serve letters as has been publicly stated, during this stage 4 water crisis. Even with Santa Maria supplemental water, there is obvious over-pumping under the land on which this development sits with hundreds of homes coming on line in the past few years. It is an egregious abuse of power to have the developers control the water for a large project when they irresponsibly refuse to acknowledge the severe drought. Numerous projects in and around the Nipomo Mesa have not gone ahead because of water concerns, including the far less dense Laetitia Winery subdivision recently turned down by this commission.



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The developers will claim water neutrality of their project and even that converting to a vineyard will save water. This is blatantly false. They are including recycled water and additional Santa Maria supplemental water in their calculations. These greedy developers have not even hooked up yet to the supplemental water (this may be years away, by their own admission, while over-pumping of the wells in our area continues for their current homes), while actively building more homes in phase 1B, which they did not take into account in their calculations. They also promised drought resistant landscaping, and yet have now installed a 7-10 acre vineyard on the hills bordering phase 1B and 2A. This will already require far more water than drought resistant landscaping. The proposed massive new vineyard will receive water pumped from the aquifer, even if they claim some will be from a non-potable well, as pumping from this same well closer to the ocean will still lower the water table for all of us and more likely allow seawater intrusion.

The supplemental state water was meant to help stop the current over-pumping of the aquifer, not to provide water for a future massive development. They are already over-pumping, and as mentioned, have still not hooked up to the supplemental water. Also, all of the neighbors of phase 2A are on wells themselves. They have no connection or recourse to the state supplemental water from the Nipomo Community Services District or the Woodlands Mutual Water Company. When the wells go dry, which they surely will at this rate of over-pumping and drought, more water will be made available to the NCSO and WMWC through the pipeline to Santa Maria, but none of this will help the families that will have no more water or will need expensive connections to be made to receive that water. The commission should place a condition on the developers to pay a bond for that connection to be made in exchange for any future development.

**The Woodlands project was approved in 2002 based on a 1998 20 year water availability study that runs out in 2018. We urge the planning commission to be responsible and demand that an additional 20 year certification be made now before any development can proceed in this time of drought and uncertainty. That is the very least this commission can do. It is irresponsible for the San Luis Obispo County government agencies not to require this when the old availability study is clearly no longer valid due to the drought and widely known and accepted falling water levels in the Nipomo aquifer.**

### 2. Developer Dishonesty

The Shea Homes developers presented their plans to the community for phase 2A first at the South County Advisory Council recommended that the plans, which included the golf course, be approved and this was forwarded to the Planning Commission just as the hoped-for rains of the El Nino season were approaching. The developers made a big show to demonstrate how beautiful the surrounding borders of the development would be to the rest of Nipomo and the adjacent neighbors and pointed out the golf course features that increase property values of the neighbors. When someone asked why a golf course was being put in instead of something else, Andrew Daymude, the leader of the Shea team, said the golf course was the best for property values of the neighborhood and "was the easiest way of getting approval of phase 2A since that was what was originally approved in the Woodlands specific plan."

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When asked about paving of Viva Way (a requirement to pave Viva Way by bonding for the future or paving it themselves was required under the specific plan), he indicated in writing and verbally that this would be done as soon as possible in order to help cut down the dust generated by the increased construction and usage traffic of the project and that it would not be bonded but rather done by the developers. Plans were submitted to the county with a completion date set for August 2016. This is no longer the case now that the developer received County Planning Commission approval of the CUP in April and now that the neighbors are appealing the project.

The naive homeowners actually thought that Mr. Daymude was telling the truth and would be true to his word. They now see that this was just a bait and switch. In addition, the company is grading the land right now without yet receiving permission to grade for a vineyard. They also pumped hundreds of thousands of gallons of water from potable wells for their water basin used to spray on dirt to suppress dust when they were they said they would only use non-potable water. They have also run the very loud generators all night long to pump that water in direct violation of the terms of the CUP and annoyed neighbors all over the upper mesa.

### 3. Equivalent Use

The director of Planning, Mr. Bergman, feels that changing most of the acreage of the project into a vineyard is equivalent use of land that was approved to be part of a the adjacent golf course community. He feels that essentially changing the neighborhood from a recreational buffer that increases property values into an agricultural use production of grapes and harvesting is equivalent value to homeowners who have invested in homes to be next to and in a golf course community. This is clearly not equivalent and significantly changes the character of the neighborhood and the surrounding property values.

### Conclusion:

We ask that the County Planning Commission act to fairly treat the neighboring property owners and residents to phase 2A by stopping this project until the drought is over and until the developers are required to have an independent 20 year water certification. Shea homes and the Woodlands Mutual Water Company are acting out of greed and selfishness in attempting to build over 220 homes in a time of severe drought. Do not allow them to abuse the other residents of Nipomo who, under the auspices of the Nipomo Community Services District, are responsibly holding back development at this time. It makes no sense to allow this massive island of development in a sea of responsible development control. We ask that you not let a project go forward that has such a blatant conflict of interest in the control of water under the relatively few acres of their project that affects so many more acres around them who have developed their properties responsibly.

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Craig Merrill, MD